

*See Attachment*

(14)  
12/19/01  
~b

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SYDNEY BRADSHAW,

Petitioner

vs.

IMMIGRATION AND  
NATURALIZATION SERVICE,

Respondent

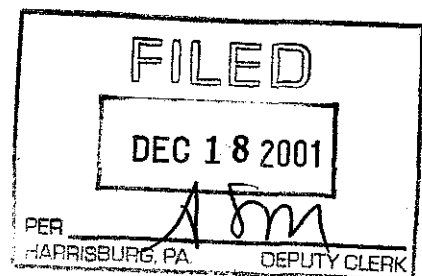
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:  
: CIVIL NO. 1:CV-01-0756  
:  
: (Judge Caldwell)  
:  
:  
:

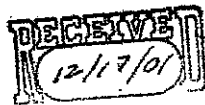
O R D E R

AND NOW, this 18th day of December, 2001, it is ordered that, within fifteen days of the date of this order, the Respondent shall file a response to Petitioner's contention, set forth in the attached document, that 8 U.S.C. § 1432 (repealed) does not apply to him because he was not born after November 14, 1986.

*William W. Caldwell*

William W. Caldwell  
United States District Judge





JUDGE'S COPY

12/11/01

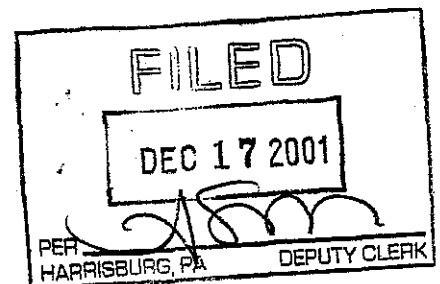
Re: 1: CV-01-0756

Dear Judge Caldwell, enclosed is sufficient proof of my derivative citizenship.

The U.S. Attorney's office made an error by using an act in the INA Law that pertains to cases after 1986.

Please Your Honor correct this mistake and order my release or what ever you deem proper and lawful in this matter.

Sincerely,



UNITED STATES DEPARTMENT OF STATE

**APPLICATION FOR PASSPORT BY MAIL****CAN I USE THIS FORM?**

Complete this checklist to determine your eligibility to use this form.

1. I can submit my most recent passport.
2. I was at least 16 years old when my most recent passport was issued.
3. I was issued my most recent passport less than ~~15~~ years ago.
4. I use the same name as on my most recent passport, OR  
I have had my name changed by marriage or court order and  
can submit proper documentation to reflect my name changes.

☐ Yes  
☐ Yes  
☐ Yes  
☐ Yes

☒ No  
☒ No  
☒ No  
☒ No

If you answered NO to any of the four statements above, STOP - You cannot use this form!!!  
 You must apply on application form DSP-11 by making a personal appearance before a  
 passport agent, postal clerk or clerk of court authorized to accept passport applications.

**FOLLOW INSTRUCTIONS CAREFULLY - INCOMPLETE OR UNACCEPTABLE APPLICATIONS WILL DELAY THE ISSUANCE OF YOUR PASSPORT. For detailed information on the items to be included, see the reverse side of this application.**

(NATIONAL PASSPORT INFORMATION CENTER (1-900-225-5674))

PLEASE REMOVE THIS STUB BEFORE MAILING AND RETAIN FOR YOUR RECORDS

*T.M. & I.H.S. To Take  
me to get  
this done  
please  
order  
T.M. & I.H.S.  
do so*

**§11.9 / Immigration Law**

is made on the regular passport application form but should have all evidentiary issues fully documented.

**§11.9(b). Derivation of Citizenship by Naturalization of Parent.**

A child born abroad derives citizenship automatically without court action when one or both parents are naturalized prior to the child's attaining the required statutory age of adulthood and length of permanent residence. §§320 and 321 of the Act, 8 U.S.C. §§1431 and 1432.

One way to distinguish derivation from acquisition is that on the date of the child's birth abroad, the parent or parents must already be citizens in order for the child to acquire citizenship.

As with acquisition, the applicable laws have evolved several times, resulting in a different set of rules depending on the date the parent or parents were naturalized.

**(1). Parent Naturalized Before May 24, 1934.** Where either parent was naturalized before May 24, 1934 and prior to the child's twenty-first birthday, and the child became a permanent resident before May 23, 1934 and before attaining age twenty-one, derivation of citizenship occurred. §5 of the Act of March 2, 1907, 34 Stat. 1228.

**(2). Parent Naturalized On or After May 24, 1934 and Before January 13, 1941.** If one parent was naturalized between May 23, 1934 and January 13, 1941 the child derived citizenship if: the parent was naturalized before the child reached age twenty-one; the child became a permanent resident before reaching twenty-one; and the child had five years' permanent residence in the United States, beginning during the age of minority and before January 13, 1941. §2 of the Act of May 24, 1934, 48 Stat. 797. However, if the parent was naturalized before May 23, 1934, and the child was admitted on or after that date, then the child still had to meet the above requirements.

The five years' permanent residency required of the child is not applicable where both parents are naturalized, where one parent has died, or where the parents are legally separated and the naturalized parent in question has legal custody of the child.

**(3). Parent Naturalized On or After January 13, 1941 and Before December 24, 1952.** If both parents were naturalized, or in the event of death, the surviving parent having legal custody of the child, or the parent having legal custody of the child if the parents were legally separated, was naturalized on or after January 13, 1941 and before December 24, 1952, the child derives citizenship subject to two conditions.

*Over*

(4). CHILD BORN ON OR AFTER DEC 24, 1952 AND BEFORE NOVEMBER 14, 1986.

A CHILD BORN ABROAD DERIVES CITIZENSHIP AUTOMATICALLY WITHOUT COURT ACTION WHEN ONE OR BOTH PARENTS ARE NATURALIZED PRIOR TO THE CHILD'S ATTAINING THE REQUIRED STATUTORY AGE OF (18 OR 21), ADULTHOOD AND LENGTH OF (5 YEARS)PERMANENT RESIDENCE, §§320 and 321 of ACT 8, U.S.C. §§1431 AND 1432.

11-20.2

SEE: NATIONAL LAWYERS GUILD - IMMIGRATION LAW & DEFENSE - THIRD EDITION WEST GROUP. RELEASE # 23, 4/99. CBC CLARK BOARDMAN CALLAGHAN

Section 321 (a) of the Act determines in part that : GOVERNS ONLY PERSONS BORN AFTER 11/14/86  
 PETITIONER SYDNEY BRADSHAW DATE OF BIRTH IS APRIL 15, 1953 - THIS LAW DOES NOT AP  
 TO HIS CASE!! A child born outside of the United States of alien parents ... becomes a citizen of the  
 United States upon the fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and
- (4) Such naturalization takes place while such child is under the age of eighteen years; and
- (5) Such child is residing in the United States pursuant to lawful admission for permanent residence at the time of the naturalization of the parent last naturalized ...; or thereafter begins to reside permanently in the United States while under the age of eighteen years...

SYDNEY BRADSHAW D.O.B. IS 04/15/53. THE LAW USED BY THE I.N.S. AND THE UNITED  
 STATE'S ATTORNEY'S OFFICE TO DENY BRADSHAW'S DERIVATIVE CITIZENSHIP IS THE LAW  
 THAT BECAME EFFECTED AFTER NOVEMBER 14, 1986!!!!!! WRONG APPLICATION.

Service records reflect that you were born on April 15, 1953 in Guyana. On December 20, 1969, you were admitted to the United States as a legal resident alien. A birth certificate submitted in connection with your application for an immigrant visa identifies your mother as Ms. Frances Veronica Bradshaw nee De Mendonca, and your father as Mr. Sydney Arnold Bradshaw. Because your parents were nationals of Guyana at the time of your birth. Service records confirm that your parents were married to each other on June 29, 1949. There is no evidence that your parents ever became legally separated or divorced. You have reported in your application that your parents to this date reside together at 151 Crown Street, Brooklyn, NY.

Service records confirm that your mother became a naturalized United States citizen on December 02, 1969. A copy of a naturalization certificate for your father verifies that he became a naturalized citizen of this country on January 10, 1978. You were at the time twenty-four years old.

Inasmuch as only your mother became a citizen of the United States before your eighteenth birth date, and since no limited or absolute divorce terminated the marriage between your parents before you became eighteen years of age, you did not derive United States citizenship as a result of the naturalization of either one of your parents.

ORDER: The Application for Certificate of Citizenship, Form N-600, filed by you on or around May 16, 2001 is hereby denied. : CERTIFICATE SHOULD BE GRANTED!!!

(4) CHILD BORN ON OR AFTER DEC 24, 1952 AND BEFORE NOVEMBER 14, 1986

PETITIONER'S D.O.B. 04/15/53. ALERT! ALERT! ALERT! PETITIONER'S D.O.B. 04/15/53  
 A CHILD BORN ABROAD DERIVES CITIZENSHIP AUTOMATICALLY WITHOUT COURT ACTION WHEN ONE OR BOTH PARENTS ARE NATURALIZED PRIOR TO THE CHILD'S ATTAINING THE REQUIRED STATUTORY AGE OF ADULTHOOD AND LENGTH OF PERMANENT RESIDENCE §§320 and 321 of ACT 8 U.S.C. §§ 1431 AND 1432.

SEE: NATIONAL LAWYERS GUILD - IMMIGRATION LAW & DEFENSE - THIRD EDITION WEST GROUP. RELEASE # 23, 4/99. CBC CLARK BOARDMAN CALLAGHAN

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

December 18, 2001

Re: 1:01-cv-00756 Bradshaw v. INS

True and correct copies of the attached were mailed by the clerk  
to the following:

Sydney Bradshaw  
BERKS CNTY PRISON  
A-128, BCP# 3533  
1287 County Welfare Road  
Leesport, PA 19533-9397

Kate L. Mershimer, Esq.  
U.S. Attorneys Office  
Room 217, Federal Bldg.  
228 Walnut St.  
Harrisburg, Pa 17108

Mark E. Morrison, Esq.  
Office of the United States Attorney  
P.O. Box 11754  
Harrisburg, PA 17108-1754

David Barasch  
United States Attorney's Office  
Room 217, Federal Building & Court House  
228 Walnut Street  
Harrisburg, PA 17108

cc:

Judge	( <input checked="" type="checkbox"/> )
Magistrate Judge	( )
U.S. Marshal	( )
Probation	( )
U.S. Attorney	( )
Atty. for Deft.	( )
Defendant	( )
Warden	( )
Bureau of Prisons	( )
Ct Reporter	( )
Ctroom Deputy	( )
Orig-Security	( )
Federal Public Defender	( )

( <input checked="" type="checkbox"/> )	Pro Se Law Clerk	Taggart
( )	INS	
( )	Jury Clerk	

Summons Issued ( ) with N/C attached to complt. and served by:  
U.S. Marshal ( ) Pltf's Attorney ( )  
Standard Order 93-5 ( )  
Order to Show Cause ( ) with Petition attached & mailed certified mail  
to: US Atty Gen ( ) PA Atty Gen ( )  
DA of County ( ) Respondents ( )  
Bankruptcy Court ( )  
Other \_\_\_\_\_ ( )

MARY E. D'ANDREA, Clerk

DATE: 12/18/01

BY: JSm  
Deputy Clerk